IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3561 OF 2004

Babasaheb Damu Godge & Anr. .. Applicants.
Vs.
State of Maharashtra .. Respondent.

Mr.Manoj J.Bhatt for the applicants.
Mr.V.B.Konde-Deshmukh APP for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 30TH AUGUST, 2004

P.C.:

. Heard Mr.Bhatt, learned counsel for the applicant and Mr.Konde-Deshmukh, learned A.P.P. for the respondent.

2. This application under section 438 of Criminal Procedure Code is filed by the applicant in Crime No.I-47/2004 registered at Kuruduwadi police station under section 302, 201 read with 34 of Indian Penal Code. This is the case of circumstantial evidence. The applicants and three accused are alleged to have committed murder of Mahadev on 8.7.2004. At this stage of the investigation the prosecution has brought on record the two circumstances i.e. motive and extra judicial confession. The two accused in the instant case were arrested and the weapon was

recovered at the instance of one of them. Keeping this in view and considering the nature of allegations against the applicants this is not a fit case to grant anticipatory bail to the applicants. There custodial interrogation would be necessary. This application is rejected. It is open for the applicants to apply for regular bail after their police custody, if any, gets over. If such application is filed same may be considered on merits in accordance with law. At this stage Mr.Bhatt, learned counsel for the applicants states that the applicants be given three days time to surrender. Mr.Konde-Deshmukh, learned A.P.P. did not seriously opposed the prayer. In view of this the applicants to surrender on or before 3.9.2004. The applicants shall not be arrested till then.

. While passing this order, I shall not be understood to have expressed any opinion on merits of the case. The trial court will deal with the case uninfluenced by the observations made in this order.

. The application is disposed of.

(D.B.Bhosale, J.)